

“(1) IN GENERAL.—Notwithstanding any other provision of this title, during the first 15 days following the date of the enactment of this section, upon the authorization of the President, the Attorney General may authorize electronic surveillance without a court order under this title until the date that is 15 days after the date on which the Attorney General authorizes such electronic surveillance if the Attorney General determines—

“(A) that an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before an order authorizing such surveillance can with due diligence be obtained; and

“(B) the electronic surveillance will be directed at persons reasonably believed to be outside the United States.

“(2) PENDING ORDER.—

“(A) INITIAL EXTENSION.—If at the end of the period in which the Attorney General authorizes electronic surveillance under paragraph (1), the Attorney General has submitted an application for an order under subsection (a) but the court referred to in section 103(a) has not approved or disapproved such application, such court may authorize the Attorney General to extend the emergency authorization of electronic surveillance under paragraph (1) for not more than 15 days.

“(B) SUBSEQUENT EXTENSION.—If at the end of the extension of the emergency authorization of electronic surveillance under subparagraph (A) the court referred to in section 103(a) has not approved or disapproved the application referred to in subparagraph (A), such court may authorize the Attorney General to extend the emergency authorization of electronic surveillance under paragraph (1) for not more than 15 days.

“(3) MAXIMUM LENGTH OF AUTHORIZATION.—Notwithstanding paragraphs (1) and (2), in no case shall electronic surveillance be authorized under this subsection for a total of more than 45 days without a court order under this title.

“(4) MINIMIZATION PROCEDURES.—The Attorney General shall ensure that any electronic surveillance conducted pursuant to paragraph (1) or (2) is in accordance with minimization procedures that meet the definition of minimization procedures in section 101(h).

“(5) INFORMATION, FACILITIES, AND TECHNICAL ASSISTANCE.—Pursuant to an authorization of electronic surveillance under this subsection, the Attorney General may direct a communications service provider, custodian, or other person who has the lawful authority to access the information, facilities, or technical assistance necessary to accomplish such electronic surveillance to—

“(A) furnish the Attorney General forthwith with such information, facilities, or technical assistance in a manner that will protect the secrecy of the electronic surveillance and produce a minimum of interference with the services that provider, custodian, or other person is providing the target of electronic surveillance; and

“(B) maintain under security procedures approved by the Attorney General and the Director of National Intelligence any records concerning the acquisition or the aid furnished.

“(g) PROHIBITION ON LIABILITY FOR PROVIDING ASSISTANCE.—Section 105(i), relating to protection from liability for the furnishing of information, facilities, or technical assistance pursuant to a court order under this Act, shall apply to this section.

“(h) EFFECT OF SECTION ON OTHER AUTHORITIES.—The authority under this section is in addition to the authority to conduct elec-

tronic surveillance under sections 104 and 105.

“(i) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ‘appropriate committees of Congress’ means—

“(1) the Select Committee on Intelligence and the Committee on the Judiciary of the Senate; and

“(2) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after the item relating to section 105 the following:

“Sec. 105A. Clarification of electronic surveillance of persons outside the United States.

“Sec. 105B. Additional procedure for authorizing certain electronic surveillance.”.

(c) SUNSET.—

(1) IN GENERAL.—Except as provided in paragraph (2), effective on the date that is 120 days after the date of the enactment of this Act, sections 105A and 105B of the Foreign Intelligence Surveillance Act of 1978, as added by subsection (a), are hereby repealed.

(2) EXCEPTION.—Any order under section 105B of the Foreign Intelligence Surveillance Act of 1978, as added by this Act, in effect on such date that is 120 days after the date of the enactment of this Act, shall continue in effect until the date of the expiration of such order.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Texas (Mr. SMITH) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

GENERAL LEAVE

Mr. CONYERS. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Madam Speaker, I yield 10 minutes to the distinguished gentleman from Texas, SILVESTRE REYES, chairman of the Committee on Intelligence, and ask unanimous consent that he be allowed to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Madam Speaker, I yield myself such time as I may consume.

There probably is no Member in this body who has a greater concern about civil rights and civil liberties than this Member. It is a cause I have worked on for all of my years in this body, and it is one that goes to the very heart of the protections provided under the Constitution and our Bill of Rights.

I am equally sensitive to the need to protect our Nation from terrorism and terrorists. I have chaired recently three classified briefings on this mat-

ter in the last week and have spent the last period of time seeking to forge common ground on this issue.

That is why we are here today, to ensure that our government has the tools it needs to respond to the threat of terrorism, while at the same time respecting our citizens' right to privacy.

That is why the bill before us permits the Attorney General to apply to the FISA court to obtain a basket of warrants for the surveillance aimed outside of the United States. That is why we provide an emergency exception. That is why we specify that foreign-to-foreign communications do not require a court order. These are all changes to current law that will help our Nation respond to the threat of terrorism.

At the same time, however, the legislation is respectful of our civil liberties. That is why we sunset the bill in 4 months, to see if this stop gap approach is working, how it is working, and allow us to gather further information. That is why we require that the court approve international surveillance procedures. That is why we insist on periodic audits. None of these safeguards exist under the current law, and all will serve to protect our precious rights and liberties.

The bill before us today responds to each and every concern raised by the distinguished Director of National Intelligence in our negotiations. In particular, yesterday he asked us to make three changes: expanding the bill to cover foreign intelligence; allowing the administration to approve guidelines for recurring communications; and allowing additional foreign targets to be added to the warrant by the court. I was concerned that some of these changes may have gone too far, but in the spirit of accommodation we made all three changes. Sometimes people simply don't want to accept “yes” for an answer.

I urge every Member in this body to support this important and balanced measure.

Madam Speaker, I include for the RECORD today's New York Times editorial entitled “Stampeding Congress, Again.”

[From the New York Times]

STAMPEDING CONGRESS, AGAIN

Since the 9/11 terrorist attacks, the Bush administration has repeatedly demonstrated that it does not feel bound by the law or the Constitution when it comes to the war on terror. It cannot even be trusted to properly use the enhanced powers it was legally granted after the attacks.

Yet, once again, President Bush has been trying to stampede Congress into a completely unnecessary expansion of his power to spy on Americans. And, hard as it is to believe, Congressional Republicans seem bent on collaborating, while Democrats (who can still be cowed by the White House's with-us-or-against-us baiting) aren't doing enough to stop it.

The fight is over the 1978 Foreign Intelligence Surveillance Act, which requires the government to obtain a warrant before eavesdropping on electronic communications that involve someone in the United States. The test is whether there is probably cause